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8-1488XS

RELIEF OF MICHAEL WILDING

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 936, S. 1919.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1919) for the relief of Michael Wilding.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3171

(Purpose: To waive section (a)(23) of the Immigration and Nationality Act, relating to a grounds for exclusion)

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for Mr. KENNEDY, proposes an amendment numbered 3171.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, lines 3 and 4, strike out "in the administration of the Immigration and Nationality Act," and inserting in lieu thereof "notwithstanding section 212(a)(23) of the Immigration and Nationality Act, for purposes of such Act,".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3171) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 212(a)(23) of the Immigration and Nationality Act, for purposes of such Act, Michael Wilding shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act, or if applicable, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL PLACED ON CALENDAR—H.R. 4807

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 4807, a bill to make certain improvements with respect to the Federal judiciary, just received from the House, be placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPUTER MATCHING AND PRIVACY PROTECTION ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 496.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 496) entitled "An Act to amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1988".

SEC. 2. MATCHING AGREEMENTS.

Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

"(A) the purpose and legal authority for conducting the program;

"(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

"(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(D) procedures for providing individualized notice at the time of application, and periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

"(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(ii) applicants for and holders of positions as Federal personnel, that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

"(E) procedures for verifying information produced in such matching program as required by subsection (p);

"(F) procedures for the timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

"(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

"(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

"(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

"(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

"(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

"(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

"(ii) be available upon request to the public.

"(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

"(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

"(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

"(i) such program will be conducted without any change; and

"(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until an

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officer or employee of such agency has independently verified such information. Such independent verification may be satisfied either (A) by verification in accordance with the requirements governing such Federal benefit program, or (B) by verification in accordance with the requirements of paragraph (2).

"(2) Independent verification required by paragraph (1)(B) shall include independent investigation and confirmation of—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use,

"(C) the period or periods when the individual actually had such asset or income, and

"(D) any other information used as a basis for an adverse action against an individual.

"(3) No recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program, until 60 days after such individual receives a notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings. Such opportunity may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not affect any rights available under this section.

"(4) Notwithstanding paragraph (3), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the 60-day notice period required by such paragraph.

"(q) SANCTIONS.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

"(2) No source agency may renew a matching agreement unless—

"(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

"(B) the source agency has no reason to believe that the certification is inaccurate.".

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) NOTICE IN FEDERAL REGISTER.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) REPORT TO CONGRESS AND OFFICE OF MANAGEMENT AND BUDGET.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended to read as follows:

"(r) REPORT ON NEW SYSTEMS AND MATCHING PROGRAMS.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) DATA INTEGRITY BOARDS.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

"(3) Each Data Integrity Board—

"(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

"(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

"(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

"(iii) any changes in membership or structure of the Board in the preceding year;

"(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

"(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

"(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

"(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

"(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

"(H) may review and report on any agency matching activities that are not matching programs.

"(4) A Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective. The Board may waive the requirements of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

"(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Notice of the appeal must be provided to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

"(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that—

"(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

"(ii) there is adequate evidence that the matching agreement will be cost-effective; and

"(iii) the matching program is in the public interest.

"(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

"(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

"(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

"(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement investigations.".

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

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"(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

"(II) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

"(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 464 or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

"(v) matches—

"(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

"(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

"(vi) matches performed to produce background checks for security clearances of Federal personnel or for foreign counterintelligence purposes;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal agency' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered or funded by the Federal Government, or any agent thereof, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

SEC. 6. FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) AMENDMENT.—Section 552a of title 5, United States Code, is further amended by adding at the end thereof the following:

"(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

"(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

"(2) provide continuing assistance to and oversight of the implementation of this section by agencies.".

(b) IMPLEMENTATION GUIDANCE FOR AMENDMENTS.—The Director shall, pursuant to section 552a(v) of title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 6 of the Privacy Act of 1974 is repealed.

SEC. 7. COMPILATION OF RULES AND NOTICES.

Section 552a(f) of title 5, United States Code, is amended by striking out "annually" in the last sentence and inserting "biennially".

SEC. 8. ANNUAL REPORT.

Subsection (s) of section 552a of title 5, United States Code (as redesignated by section 2 of this Act), is amended—

(1) by striking out "ANNUAL" in the heading of such subsection and inserting "BIENNIAL";

(2) by striking out "annually submit" and inserting "biennially submit";

(3) by striking out "preceding year" and inserting "preceding 2 years"; and

(4) by striking out "such year" and inserting "such years".

SEC. 9. RULES OF CONSTRUCTION.

Nothing in the amendments made by this Act shall be construed to authorize—

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

SEC. 10. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) EXCEPTIONS.—The amendment made by sections 6, 7, and 8 of this Act shall take effect upon enactment.

AMENDMENT NO. 3172

Mr. DOLE. Mr. President, I move to concur in the House amendment with an amendment on behalf of Senators COHEN and LEVIN which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. COHEN and Mr. LEVIN proposes an amendment numbered 3172.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the amendment of the House, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1988".

SEC. 2. MATCHING AGREEMENTS.

Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

"(A) the purpose and legal authority for conducting the program;

"(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

"(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

"(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(ii) applicants for the holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

"(E) procedures for verifying information produced in such matching program as requird by subsection (p);

"(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

"(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

"(I) procedures governing the use by a recipient agency or non-Federal agency or

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records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

"(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

"(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

"(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

"(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives, and

"(ii) be available upon request to the public.

"(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

"(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

"(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

"(i) such program will be conducted without any change; and

"(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until an officer or employee of such agency has independently verified such information. Such independent verification may be satisfied by verification in accordance with (A) the requirements of paragraph (2); and (B) any additional requirements governing verification under such Federal benefit program.

"(2) Independent verification referred to in paragraph (1) requires independent investigation and confirmation of any information used as a basis for an adverse action against an individual including, where applicable—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(3) No recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program (A) unless such individual has received a notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and (B) until the subsequent expiration of any notice period provided by the program's law or regulations, or 30 days, whichever is later. Such opportunity to contest may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not affect any rights available under this section.

"(4) Notwithstanding paragraph (3), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the notice period required by such paragraph.

"(q) SANCTIONS.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p); or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

"(2) No source agency may renew a matching agreement unless—

"(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

"(B) the source agency has no reason to believe that the certification is inaccurate.

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) NOTICE IN FEDERAL REGISTER.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) REPORT TO CONGRESS AND OFFICE OF MANAGEMENT AND BUDGET.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended to read as follows:

"(r) REPORT ON NEW SYSTEMS AND MATCHING PROGRAMS.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the probable or potential effect of such proposal on the privacy or other rights of individuals.".

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) DATA INTEGRITY BOARDS.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

"(3) Each Data Integrity Board—

"(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

"(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

"(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

"(iii) any changes in membership or structure of the Board in the preceding year;

"(iv) the reason for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

"(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

"(vi) any other information required by the Director of the Office of Management and Budget to be included in such report:

"(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

"(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

"(H) may review and report on any agency matching activities that are not matching programs.

"(4)(A) Except as provided iin subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective.

"(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

"(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be

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approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

"(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

"(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of the Data Integrity Board if the Director determines that—

"(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

"(ii) there is adequate evidence that the matching agreement will be cost-effective; and

"(iii) the matching program is in the public interest.

"(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

"(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

"(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver.

"(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations."

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records of a system of records with non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

"(II) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

"(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 464 or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

"(v) matches—

"(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

"(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

"(vi) matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal agency' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency which discloses records contained in a system of records to be used in a matching program, of any State or local government, or agency thereof which discloses records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

SEC. 6. FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

"(a) AMENDMENT.—Section 552a of title 5, United States Code, is further amended by adding at the end thereof the following:

"(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

"(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and

"(2) provide continuing assistance to an oversight of the implementation of this section by agencies.".

(b) IMPLEMENTATION GUIDANCE FOR AMENDMENTS.—The Director shall, pursuant to section 552(v) of title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 6 of the Privacy Act of 1974 is repealed.

SEC. 7. COMPILATION OF RULES AND NOTICES.

Section 552(f) of title 5, United States Code, is amended by striking out "annually" in the last sentence and inserting "biennially".

SEC. 8. ANNUAL REPORT.

Subsection (s) of section 552a of title 5, United States Code (as redesignated by section 2 of this Act), is amended—

(1) by striking out "'ANNUAL'" in the heading of such subsection and inserting "'BIENNIAL'";

(2) by striking out "annually submit" and inserting "biennially submit";

(3) by striking out "preceding year" and inserting "preceding 2 years"; and

(4) by striking out "such year" and inserting "such years".

SEC. 9. RULES OF CONSTRUCTION.

Nothing in the amendments made by this Act shall be construed to authorize—

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

SEC. 10. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) EXCEPTIONS.—The amendment made by sections 3(b), 6, 7, and 8 of this Act shall take effect upon enactment.

Mr. COHEN. Mr. President, I am pleased that the Senate is considering S. 496, the Computer Matching and Privacy Protection Act of 1988. The bill before us today is a House substitute to a bill that was passed unanimously by the Senate last year. The language of the House bill is based upon, and is very similar to, the Senate-passed bill. Today Senator

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LEVIN and I are proposing a Senate amendment to the House-passed bill. This amendment, which is in the nature of a substitute, makes modest changes in the House-passed bill and will be, I believe, acceptable to the House.

The purpose of the Computer Matching and Privacy Protection Act of 1988 is to regulate the use of computer matching programs that involve records subject to the Privacy Act of 1974. In matching programs, agencies cross-check information from two or more data bases to find individuals common to both. Most often, matching programs are performed to detect fraud, abuse, or overpayments in Government programs. A single matching program could exchange the records of thousands of citizens at one time.

In the past few years, the expansion of matching programs has been staggering, with over 2 billion separate records being exchanged between 1980 and 1985. The Congress is increasingly requiring agencies to conduct computer matches of their programs with other data bases to verify the accuracy of information provided by applicants for, and recipients of, Federal benefits, or to collect overdue loans. Many of these matches involve very personal information, such as income and employment data, of individual citizens.

While computer matching is a useful, efficient tool to protect the integrity of Government programs, this technique also presents tremendous potential for abuse because there are no mandatory rules for agencies to follow when performing matches, little protection for the persons whose records are matched, and little oversight of how these programs are conducted. Citizens can be—and have been in the past—placed in the difficult position of having to defend themselves against information that has never even been reviewed by a human being for its accuracy.

Without vigilant oversight and strict procedures in place, the power of computer technology, when in the hands of the Government, can pose threats to the individual rights of citizens. Unchecked disclosures and exchanges of personal records could result in "fishing expeditions" by overzealous Government officials who may be insensitive to the privacy and confidentiality rights of citizens and could expose sensitive personal records to computer security risks.

S. 496, as passed by the Senate and amended by the House, incorporates the recommendations of several experts—ranging from strong privacy advocates, such as the American Civil Liberties Union, to the inspectors general, the Office of Management and Budget and managers of Federal benefit programs—on how to strike the proper balance between the legitimate needs of Government efficiency and personal privacy.

S. 496 contains three main elements. First, it requires agencies to enter into written matching agreements before disclosing records for use in matching programs. These agreements will force agencies participating in or conducting matches to establish and observe basic safeguards on information that they exchange and will facilitate oversight of matching by the Office of Management and Budget, the Congress, and the agencies themselves.

The bill also establishes a "data integrity board" in each agency that participates in or conducts computer matching programs. These boards will have the responsibilities to review, approve, and maintain matching agreements, and to review all matches in which the agency has participated. I believe that the existence of these boards will go far in enhancing privacy as a priority of each agency when exchanging records in matching programs.

Finally, this bill ensures basic due process protections of individuals whose records are matched by prohibiting agencies from reducing, suspending, or terminating Federal financial assistance on the basis of information produced by a matching program without first verifying the information for accuracy, providing notice to the individual involved, and providing individuals with an opportunity to refute the information produced by the computer match. These basic elements are not only principles of fairness, but are also good management practices for agencies to follow.

The House amendment to S. 496 is very similar to the Senate-passed bill, and most of the changes made by the House are acceptable to the Governmental Affairs Committee, which reported the Senate bill. The amendment that Senator LEVIN and I are offering today would make only minor changes to the House amendment. I would like to highlight two proposed changes to the House amendment that address particular concerns expressed by the inspectors general and the Office of Management and Budget.

First, the proposed amendment would modify the notice requirements established by the House amendment. Concerns have been raised that the notice procedures contained in the House amendment may be costly and difficult for agencies to follow, by requiring them to provide individualized notice to all applicants and recipients of Federal benefit programs, or to persons who are already holding positions in the Federal Government, that any information provided by them may be subject to verification through matching programs. The proposed amendment would modify this provision to require agencies to establish procedures for requiring individualized notice at the time of application, and notice periodically thereafter, as directed by the data integrity boards established by the bill, to these persons that their records may be subject to verification in matching programs. This amendment is intended to provide more flexibility for agencies in giving notice about matching programs.

The second provision of this amendment that I want to highlight is a change in the House amendment's provision requiring agencies to wait 60 days until taking adverse actions against individuals based on information produced by a matching program. Requiring agencies to afford an individual ample opportunity to contest the findings of the match is a crucial element of this legislation and was a provision of the Senate-passed bill. A strict rule that agencies must wait 60 days before taking adverse action is too rigid, however, to be applied to all matching programs. Thus, the amendment being proposed today would alter this delay provision to provide that agencies may not take adverse action until 30 days after the individual has been given notice of the findings of the matching program and of the opportunity to contest these findings or until the notice period provided by the law or regulation governing the Federal benefit program has expired, whichever is later.

This proposed amendment will shorten the delay period to minimize the danger of allowing erroneous payments to continue, while ensuring a minimal delay period of 30 days, which is necessary to comport with due process rights.

I also want to clarify a potential problem that came to the attention of the Governmental Affairs Committee since S. 496 passed the Senate last year. Concerns were raised that matches conducted by the Federal Parent Locator Service and the Office of Child Support Enforcement may be subject to the requirements of this bill. Language in the committee report and changes made by the House amendment, which are acceptable to the Governmental Affairs Committee, should clarify that these matches are not subject to the bill's requirements, allowing them to continue without interference.

Mr. President, the Federal Government would be remiss if it did not take full advantage of advanced technology to ensure that it is spending tax dollars wisely. In our pursuit of efficiency, however, we cannot become insensitive to the fundamental rights of our citizens. What is today seen as an ally against fraud and waste could grow into an enemy of the very liberties that we profess to cherish most.

This bill is an important step in guaranteeing that information practices of the Federal Government adequately respect the privacy and due process of our citizens. I urge my colleagues to adopt the proposed amendment to S. 496 so that the House may take swift action on this legislation.

I want to thank my colleague Senator LEVIN, chairman of the Oversight Subcommittee, for his continued support and involvement in this issue, and

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also want to thank his staff for their fine and able assistance on this bill. Finally, I also want to express my thanks to Congressman GLENN ENGLISH, chairman of the House subcommittee that considered this bill, and his staff, for the expertise and dedication that they have provided on this legislation in the House.

Mr. President, I ask unanimous consent that a summary of the amendment I am offering to S. 496 to printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF SENATE AMENDMENT TO S. 496 AS PASSED BY THE HOUSE

The Senate amendment includes minor changes to the House-passed provisions of S. 496, the Computer Matching and Privacy Protection Act of 1988. The amendment, which takes the form of a substitute amendment, alters the following provisions of the House-passed bill:

1. TERMS OF MATCHING AGREEMENTS

The amendment modifies Section 2 of the House-passed version of S. 496, which sets forth elements that must be included in the written matching agreements required by the bill. The amendment modifies this section of the House bill in two respects:

First, the House bill requires that the matching agreements contain procedures for providing individualized notice at the time of application, and periodically thereafter as directed by the Data Integrity Board to applicants for and recipients of financial assistance or payments under Federal benefit programs and to applicants for and holders of positions as Federal personnel, that any information provided by them may be subject to verification through matching programs.

The requirement for notice to such individuals that their records may be matched was also a provision contained in the Senate-passed bill. There is concern, however, that the provision of the House bill that requires individualized notice periodically to all persons who are already receiving Federal benefits or persons who are already holding positions in the Federal government may be prohibitively expensive, especially if this provision is interpreted as requiring agencies to send separate notices to these persons that their records may be matched. Thus, the amendment modifies the House provision to require the matching agreement to include procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board, to these persons that their records may be subject to verification in matching programs.

This amendment is intended to require individualized notice for all applicants for benefits and federal positions. Such notice can be included on the application form or with other notices provided to applicants. The amendment is intended to provide more flexibility for agencies when providing periodic notice to persons who are already receiving benefits or who already hold government positions. The specific procedures for giving periodic notice for a particular matching program should be directed by the Data Integrity Board, subject to guidance from the Office of Management and Budget. Constructive notice, such as publication of the matching program in the Federal Register, is not considered adequate to meet the periodic notice requirement except in very limited circumstances when actual notice would interfere with the essential purpose of the match. The mailing of separate periodic notices is not required by law, but could be required in specific instances either by the Data Integrity Board or through OMB guidance.

Second, the amendment reinstates the provision from the Senate-passed bill that matching agreements contain procedures for the retention and timely destruction of identifiable records created by matching programs. This provision recognizes that agencies must retain the information created by matching programs in order to conduct the matching program, and the verification and followup that is essential to the matching program. This would include the investigation and prosecution that may result from a matching program that uncovers activity that warrants civil criminal investigation or prosecution. All records created by the match, however, should be destroyed as soon as the records are no longer needed for the match itself and directly related followup.

2. VERIFICATION

The amendment modifies section 2 of the House-passed bill to specify that independent verification of the information produced by the matching program must, at a mimimum, meet the independent verification requirements as set forth in this bill. The House-passed version of S. 496 allowed verification to be satisfied by either the requirements set forth in the bill or the verification requirements governing the particular Federal benefit program involved in the matching program.

The amendment is intended to assure that agencies will, at a minimum, meet the verification requirements set forth in S. 496, which include independent investigation and confirmation of any information used as a basis for adverse action against an individual. Both versions of the bill include specific elements that must be verified, when applicable to the matching program.

3. DELAY IN TAKING ADVERSE ACTIONS

Both bills prohibit agencies from suspending, terminating, reducing, making a final denial of any financial assistance or payment under a federal benefit program, or from taking any other adverse action against individuals based on the information produced by a matching program until the individual has received a notice of the findings and has been given an opportunity to contest the findings. The House-passed bill prohibits any such adverse action until 60 days after notice and opportunity to contest findings have been given to the individual, while the Senate bill does not specify a period of time for agencies to wait until taking adverse action.

A strict rule that agencies must wait 60 days before taking adverse action is too rigid to be applied to all matching programs covered by the bill, and may result in a significant number of erroneous payments being made to ineligible claimants under Federal benefit programs. In some cases, a 60 day delay may be longer than the waiting period required by the law or regulations governing the specific Federal benefit program involved in the matching program, thus causing confusion to agency officials over which waiting period they must follow prior to taking adverse action.

The amendment alters the delay period to provide that agencies may not take adverse action until the individual has been given notice of the findings of the match and an opportunity to contest the findings of the match and until the subsequent expiration of the notice period provided by the law or regulation governing the program, or 30 days after giving a notice of findings and of the opportunity to contest findings, whichever is later. This provision will shorten the delay to minimize the danger of allowing erroneous payments to continue, while ensuring a minimal notice period of 30 days, which is necessary to comport with due process rights. For programs in which a longer notice and contest period is allowed, this longer period would govern.

4. COST BENEFIT ANALYSIS

The House bill, but not the Senate-passed bill, requires agencies to submit a cost-benefit analysis of the proposed matching program before a matching agreement can be approved by the Data Integrity Board. A waiver of the cost-benefit analysis requirement is available from the Data Integrity Board in accordance with guildelines prescried by OMB.

Mandating a pre-match cost-benefit analysis is inappropriate for those matching programs that are required by law. Thus, the Senate amendment specifically exempts these matches from the up-front cost-benefit analysis requirement.

Since the costs of matching programs should be considered for those matches that will be repeated to determine if the matching program is truly cost-effective, the Senate amendment further specifies that any subsequent matching agreement for a matching program specifically required by statute will not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted.

5. CONFORMING AND TECHNICAL AMENDMENTS

The Senate amendment makes clarifying and conforming amendments, such as:

providing that any reports on matching activities conducted outside the scope of this bill may present information on an aggregate basis in order to protect counterintelligence investigations, in addition to protecting law enforcement matching programs (as specified in the House bill);

adding matches performed to produce background checks for security clearances of Federal contractor personnel to the list of matching programs exempted from the bill; and

including any program administered by a state on behalf of the Federal government within the definition of "federal benefit program" in order to clarify that state-administered Federal benefit programs, such as AFDC and Medicaid, are included within this definition.

Mr. LEVIN. Mr. President, the Computer Matching and Privacy Protection Act, S. 496, was introduced by Senator COHEN and myself in February 1987 and passed by the Senate, unanimously, last December. The bill was then referred to the House Subcommittee on Government Information, Justice, and Agriculture of the Committee on Governmental Operations. Under the leadership of my colleague, Congressman GLENN ENGLISH, that subcommittee held hearings on the bill and suggested improvements in its text. In July, the House passed S. 496 with an amendment and returned the legislation to the Senate. Staffs from both bodies and both sides of the aisle then met, discussed the issues, and resolved their differences.

The bill before you today incorporates the best of the two earlier versions approved by our respective bodies. It is one that both Houses can and should support. Over the past few

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years, the Subcommittee on Oversight of Government Management, under Senator COHEN's leadership, conducted lengthy investigations and hearings reviewing the issues related to computer matching. As members of the subcommittee, we heard repeated descriptions of the problems with Federal practices, including inaccurate data, poor control over the records, lack of oversight and lack of statutory guidance. This bill provides a reasonable statutory scheme to resolve those problems.

Federal benefit programs rely on computers, not only to store information about assistance provided to particular beneficiaries but also to uncover irregularities and fraud that may be hidden within the Federal system. Computer matching programs are an increasingly popular means to check applicants' eligibility for Federal benefits and to discover possible fraud. By directing their computers to compare two or more sets of agency records, Federal workers can quickly cross-check various facts. Such procedures improve the efficient and effective review of beneficiary programs.

At the same time, however, computers and computer matching programs are not infallible. Mistakes can be and are made. One obvious problem is that computers often have outdated or incorrect data. Other problems arise from computer operators who mistakenly enter wrong information or design faulty programs.

Consider, for example, a State agency which conducted a 1983 computer match of welfare records and local bank records. The matching project identified a large number of individuals with bank assets seemingly in excess of the program's requirements. The agency did not, however, immediately cut off these individuals' benefits; it first gave each beneficiary a chance to explain. The agency later determined that the computer match had an error rate of 94 percent. That means that 94 percent of the people identified in the match as ineligible were, in fact, eligible to receive their benefits. Experiences like this one demonstrates that computer matching programs are only useful when carefully administered.

In addition to the specter of inaccurate data, computer matching practices threaten the privacy rights of individuals. Unrestrained matching projects could lead to the compilation of detailed computer files on every individual or to the Government's improper release or use of personal information. To prevent such abuses, agency records used in matches, as well as the resulting data, should be safeguarded during their use and either destroyed or returned upon completion of the project.

The bill before you today provides needed statutory controls over Federal use of computer matching. It creates a statutory scheme in which each Federal agency is required to process its computer matching projects in an orderly fashion under the watchful eye of an agency data integrity board. Each matching project must proceed under a document setting forth its terms and procedures, including the records to be matched, the treatment of the records after the match, the use of the resulting data, and the means by which the data will be verified. Most importantly, the bill prohibits the termination of any individual's benefits on the basis of matching data until the relevant agency first verifies that data and gives the individual a chance to respond.

These are commonsense safeguards. The controls are comprehensive but flexible, permitting agencies to tailor their matches to their needs but requiring them to think through protections for the individuals involved. The rules represent the collective wisdom of many groups and individuals who have been tracking this issue since computer matching first appeared in the Federal arena.

I commend Senator COHEN for his continuing efforts in this important area and for his ability to produce legislation that enjoys the consensus support of the groups interested in and affected by its provisions. The bill before us now is the culmination of literally years of work wrestling with issues of efficiency, privacy, effectiveness, and fairness. Its provisions are workable, sensible, and sorely needed. This bill merits the Senate's unanimous support, and I urge all my colleagues to join with us in voting for its enactment into law at this time.

Mr. GLENN. Mr. President, I rise in support of the substitute amendment to the House amendment to S. 496, the Computer Matching and Privacy Protection Act of 1988. S. 496 was reported unanimously by the Committee on Governmental Affairs on May 20, 1987, and was passed by the Senate on May 21, 1987. The House of Representatives recently passed its version of the bill, substituting the text of H.R. 4699 in lieu of the Senate language. The committee's review of the House amendment shows that it includes many of the same provisions of the Senate bill. The substitute amendment under consideration today includes certain provisions from the original Senate bill, and other technical and conforming amendments which the House has agreed to.

I want to commend Senator COHEN, ranking minority member of the Subcommittee on Oversight of Government Management, who was responsible for putting together two sets of excellent oversight hearings on computer matching by Federal agencies and non-Federal agencies with Federal records. The subcommittee's review determined that computer matching is a technique used extensively by inspectors general to track down fraud, waste and abuse in Federal benefit programs. The hearings raised questions about the due process and privacy rights of those individuals subject to unregulated computer matching activities.

To resolve these questions, Senator COHEN and Senator LEVIN, the subcommittee chairman, introduced and secured Senate passage of S. 496, which establishes procedures to regulate the use of computer matching, including requiring matching agreements between agencies when sharing data, providing the right to appeal to individual affected by information obtained in a match, and establishing Data Integrity Boards to oversee matching programs. I believe the legislation we have before us today represents an appropriate balancing of the need to track down fraud, waste, and abuse in Government through computer matching and the need to protect the privacy and due process rights of individuals subject to those matching programs.

I urge my colleagues to give this bill their full support and speed its enactment into law.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

ORDER FOR STAR PRINT—S. 1262 AND S. 1863

Mr. BYRD. Mr. President, I ask unanimous consent that the reports for S. 1626, the Intellectual Property Bankruptcy Protection Act, and S. 1863, the Municipal Bankruptcy Amendments, be star printed to effect the changes that I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with Public Law 90-206, appoints the following individual to the Commission on Executive, Legislative, and Judicial Salaries: the Honorable Charles Mathias of Maryland.

ORDERS FOR THURSDAY, SEPTEMBER 22, 1988

RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock on Thursday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONTROL OF TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time for debate during the 1 hour, the cloture hour be under the control of Mr. KENNEDY and Mr. HATCH.

The PRESIDING OFFICER. Without objection, it is so ordered.

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